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Held at Headquarters, New York,
on Tuesday, 18 January 1994, at 3 p.m.

Chairperson: Ms. CORTI

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION (continued)

Initial report of Madagascar (CEDAW/C/5/Add.65/Rev.2)

1. At the invitation of the Chairperson, Ms. Rajaonson and Mr. Rakotondramboa (Madagascar) took a place at the Committee table.

2. Ms. RAJAONSON (Madagascar), introducing her country's report (CEDAW/C/5/Add.65/Rev.2), said that it suffered from a dearth of up-to-date and reliable statistical data. For instance, the most recent census data available to her country dated from 1975; the report was therefore based on limited and sectorally focused data. In 1991, a popular movement had led to the establishment of new institutions including the enactment of a new Constitution under which equality was guaranteed to all citizens without any distinctions whatsoever. The law on the national population policy, adopted in December 1990, included an entire section devoted to women and spelt out steps that were deemed indispensable to their economic and social development. Madagascar had participated in a regional seminar in Senegal in 1993 and was making preparations for the regional conference to be held in Dakar in November 1994 as part of the preparations for the Fourth World Conference on Women in Beijing in 1995. Towards that end, a national workshop on women and development had been organized in September 1992 in Antananarivo; in addition, five regional workshops had been held in 1993, at which representatives of women's associations had established women and development units and worked out regional development plans.

3. Concerning the report itself, articles 1, 2 and 3 were too generally phrased to allow for specific comment. After drawing attention to the comment regarding article 4, Madagascar had not yet adopted any special provisional measures to establish equality between the sexes. She said that, as for article 5, it was difficult to gauge the extent to which patterns of behaviour had changed. However, the Secretariat of State for Population Matters was currently implementing a project financed by the United Nations Population Fund involving family-based education and support for women's self-employment. Such family-based education comprised inter alia teaching women what their rights were. A very important role was being played in that regard by two new non-governmental organizations, the Association of Malagasy Women Journalists and the Association of Women Jurists for the Primacy of Law.

4. Turning to article 6, she noted that prostitution was a problem that fell into the informal sector. The State exercised no control over prostitution and generally speaking, the women engaged in that profession were so poor that they had no other means of surviving. Another problem was the gap between the adoption of laws and their implementation; that gap stemmed from the limited strength of the police force, which really operated only in the urban setting. The exodus from the countryside, combined with the increase in the urban population itself, had led to an alarming increase in prostitution. Because of the freeze on the total public sector strength decreed by the World Bank and the

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International Monetary Fund, her Government could not recruit more police officers.

5. In connection with article 7, she said that there was only one female member of Government, the Secretary of State for Higher Education; in the National Assembly, 7 of the 138 deputies were women (previously the number had been 4), and of those 7, 2 were members of the permanent bureau. The first president of the court of appeal was a woman and the controller general of police was a woman.

6. Referring to article 8, she said that it was regrettable that not one woman ambassador had been appointed since Madagascar had gained independence in 1960.

7. To her knowledge, there were no problems or inequalities in matters of nationality (article 9).

8. In respect of article 10, girls and boys and men and women had equal access to education. In one of the six provinces of Madagascar, there was a higher rate of school enrolment among girls than boys. The success rate of girls was generally higher than that of boys. However, that equality was threatened by the serious economic crisis in Madagascar; if parents could not afford to send all their children to school, it was usually the girls who were sacrificed.

9. With regard to employment (article 11), the law guaranteed the same rights to men and women in the administration and in the private sector. In 1993, there had been complaints of sexual harassment and dismissal on grounds of pregnancy in respect of women employed by factories in free zones; although those zones were subject to the labour codes, factory owners tended to threaten to move elsewhere if they received complaints and there were always many women eager to work in such factories. As Madagascar apparently had the lowest salaries in the world, new authorizations for such factories, which were mainly involved in garment making, were issued every month. The situation therefore needed to be followed closely so that the economic interests of Madagascar and of creating employment were not pursued to the detriment of the dignity of working women.

10. There was equality between men and women and between girls and boys in matters of health (article 12). However, in recent years, there had been an increase in the rate of maternal mortality, mainly because of the absence of medical care, especially in rural areas, and uncontrolled fertility, despite the implementation of the national population policy.

11. De jure and de facto equality were ensured for Malagasy women in the areas referred to in article 13. In connection with article 15, there was a subregion in Madagascar where, according to customary law, women were not entitled to inherit land from their fathers or husbands; that custom was slowly changing.

12. Women enjoyed equality in respect of marriage and family relations (article 16). Malagasy women had the right to keep their maiden names after marriage, and only a minority chose to take their husbands' names. However, the

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law on adultery was a clear case of unequal treatment of women; for men, adultery was a minor offence subject to a fine whereas for women it was a crime punishable by imprisonment. That question would be taken up as soon as possible by the women deputies in the National Assembly. Although Malagasy women enjoyed equality with men in marriage, only about 30 per cent of couples were married under civil law and all the others cohabited or were married under customary law.

13. Although women were afforded equality with men under the laws established after Madagascar gained independence, the social relations of the majority of the population were still governed by customary law and women therefore needed to be informed of their rights in order to enjoy them to the full. Two non-governmental organizations were working closely with the Directorate for Women's and Children's Affairs to provide access to information, especially for rural women.

14. The newly formed Association of Women Entrepreneurs of Madagascar was trying to find ways of ensuring the effective participation of women in economic life. Women members of the National Assembly planned to develop a strategy for the further integration of women in political life.

15. Ms. GARCIA-PRINCE said that the report lacked statistical data which would enable the Committee to evaluate the achievements of the Government and non-governmental organizations in the advancement of women. She noted that some articles of the Convention had not been covered at all, and the representative of Madagascar had said that articles 1 to 3 did not require specific commentary. Article 2 was the very heart of the Convention because it referred to the structure that States needed to develop to guarantee de jure equality between women and men.

16. It was clear that Malagasy society had very strong patriarchal trends and that women were confined to their traditional domestic roles. There was a need for the Government, along with NGOs, to make sustained efforts on behalf of women. While the activities of the Directorate for Women's and Children's Affairs were laudable, the fact that they were linked with the domestic obligations of women merely underscored the traditional focus of public action for women. That situation was confirmed in respect of the educational opportunities for women and their participation in employment, since it appeared that women tended to take jobs that were extensions of their domestic tasks. It was not clear to her whether the obstacles to female employment listed on page 9 of the report were merely a reflection of public attitudes or whether the Government, in fact, shared those attitudes. If the latter were the case, that would be a transparent example of sexism. Indeed, if that was the cultural framework in Madagascar, major changes in mentality were needed.

17. Ms. DE RAMSEY said that since the report contained very few statistics it was hard for the Committee to gain a clear picture of the situation of women. Madagascar's efforts to give equal treatment to women were hampered by economic factors, as was the case in many third world countries. Madagascar must persist in its efforts to ensure equality of rights for women, for the benefit of the nation as a whole, and above all must work to change people's mentality.

18. Ms. OUEDRAOGO said that although the information provided on some articles of the Convention was limited, care had been taken in the report to comment on the Convention article by article. It was encouraging that there was a coherent policy for the advancement of women through a single coordinating mechanism which could harmonize action for women and carry out evaluation and follow-up procedures, and that there was s single body for matters affecting women and children, the Directorate for Women's and Children's Affairs.

19. At the same time, it was hard for the Committee to evaluate the impact of the programmes that had been carried out since no evaluation was made of them. It was clear that priority must be given to information programmes in order to combat the weight of tradition.

20. Ms. SCHOPP-SCHILLING said that the situation in Madagascar was difficult to evaluate because of the lack of information. Future reports should contain more information about the role of tradition; she understood that there were about 40 different ethnic groups in Madagascar and she wondered how that situation influenced the status of women. She also asked what religion or religions prevailed and what impact they had on women.

Article 4

21. Ms. CARTWRIGHT said that she had read the report with concern since it appeared that the Government of Madagascar had in place only de jure provisions for equality between men and women but that little had been achieved in respect of de facto equality. For example, in respect of article 8, the report merely noted that there was no legal text forbidding, or limiting the freedom of, Malagasy women to represent their Government at the international level; in fact, the Government had an obligation under article 4 to work towards equal representation in that field and all other spheres of public and private life. She asked whether the Government planned to take up that matter in the near future.

22. Ms. MAKINEN said that it was regrettable that Madagascar had not adopted any special provisional measures to establish equality between the sexes since such measures were a very effective way of achieving real equality. She asked whether the Government had any timetable for adopting special measures, especially in politics and education.

23. Ms. SCHOPP-SCHILLING said that article 4 was the most important mechanism in the Convention for accelerating the process of equality for women. The report contained a number of examples of measures taken that accorded with article 4, such as the establishment of "women and development" units. In its next report, the Government of Madagascar should review the measures that it was taking to determine to what extent they belonged under article 4.

Article 5

24. Ms. CARTWRIGHT said that the information provided in relation to article 5 showed that there was serious discrimination against women in the workplace. There was no mention of any plan of action to enable women to enter all categories of employment. The efforts of the Directorate for Women's and Children's Affairs were commendable but were directed only at helping women

(Ms. Cartwright)

enter traditional feminine occupations which were invariably lower paid and of lower status. It was critical that women should have access to higher-paid jobs, particularly since so many women were breadwinners. She asked whether the Government of Madagascar would undertake to improve the lot of women in the workplace as a matter of urgency.

Article 6

25. Ms. BUSTELO said that the information provided in the report about prostitution did not take into account the general recommendations made by the Committee, especially recommendation 19, on violence, to which the Committee attached great importance as an aspect of discrimination against women. More information was needed in order to see whether prostitutes had the same rights as other women in that respect. She asked whether female prostitutes had access to health services including information on sexually transmitted diseases, especially AIDS, and asked how prostitutes were regarded by society.

Article 7

26. Ms. BUSTELO said that she would welcome more information on the role of women in the political life of Madagascar and on the results of efforts, including legislative programmes, to increase participation by women in political parties and in the elaboration of public policies.

27. She noted that NGOs played a useful role in helping to achieve the aims of the Convention and said that their efforts should be reflected in the various reports. She wondered whether the relevant non-governmental organizations had been consulted in the preparation of the current report.

28. Ms. SCHOPP-SCHILLING expressed concern at the very small numbers of women involved in the country's political life. She wondered whether that situation was attributable to prevailing stereotypes, lack of training or the heavy domestic workload of women. The Government should determine the underlying reasons, devise programmes to remedy the situation and report back to the Committee.

Article 8

29. Ms. TALLAWY expressed dissatisfaction with the Government's assertion that there was "no legal text forbidding Malagasy women or limiting their freedom to represent their Government at the international level and to participate in the work of international organizations". The Government had an obligation not only to protect, by law, the particular rights set forth in the Convention, but also to report on the de facto situation and indicate the extent to which the law was actually being implemented. She hoped that future reports would deal with the obstacles to the enjoyment of that right and the practical steps that had been taken to remove those obstacles.

Article 9

30. Ms. TALLAWY noted that the Malagasy National Code provided that children born of a foreign father could claim the nationality of their Malagasy mother only upon reaching the age of majority. It therefore seemed to her that if the parents of such a child were divorced before the latter attained the age of majority, the child would be denied the right to Malagasy citizenship. She would welcome clarification of that point.

Article 11

31. Ms. MAKINEN said that she would welcome an explanation for the difference in maternity leave entitlements between women working in the civil service and those in the private sector.

Article 12

32. Ms. CARTWRIGHT wondered whether there were programmes in place to detect and treat life-threatening diseases in women, such as cervical cancer and breast cancer.

33. Ms. AOUIJ expressed concern at the deterioration of public health services in Madagascar, particularly as it affected women. She noted that abortion was being increasingly practised as a family planning method, often with fatal consequences for the mother. She would welcome information on the results of the Government's policy in that field since 1986, and, in particular, its efforts to discourage the traditional practice of large families. It was also important for women's organizations and NGO's to educate women about their rights and about the risks associated with pregnancy.

34. Ms. SCHOPP-SCHILLING asked whether female circumcision was practised by any of the ethnic groups and what was the Government's attitude towards it.

Article 13

35. Ms. OUEDRAOGO said that she would welcome information about the credit facilities available to women in Madagascar, who were mainly engaged in poorly paid activities in the informal sector. She wondered whether the Directorate for the Advancement of the Status of Women and Children was promoting the establishment of such facilities, which could launch women into economic activities and thereby enhance both their earning power and social status.

Article 14

36. Ms. KHAN noted that agriculture was the dominant sector in the economy of Madagascar and that it employed 61 per cent of rural women. She therefore wondered whether the Government had initiated any agricultural reforms, such as the introduction of mechanization, the provision of special credit or the establishment of agricultural banks.

Article 15

37. Ms. ABAKA said that the inheritance law described in the report blatantly discriminated against women, who were eighth in line for succession to the estate of their deceased spouses. The legislation in question required urgent review.

Article 16

38. Ms. CARTWRIGHT said that Madagascar's implementation of article 16 of the Convention raised a number of troubling questions. Firstly, a husband appeared to have the power to decide where the couple should reside. Moreover, given the young age and the low educational levels of many wives, it was not enough to provide that women who were victims of violence by their husbands should have recourse to a judge. Indeed, many women night not even be aware of such rights. She also wished to know whether the law governing the domicile of a couple permitted a woman who had abandoned her home to continue receiving support from her husband. Finally, the law relating to adultery, particularly the provision which excused a man for the murder of his wife surprised in flagrante delicto, was manifestly unjust and must be reviewed.

39. Ms. KHAN noted that the laws relating to marriage seemed generally to be unfair to women. She would welcome clarification of what was meant by temporary marriages and of the status of children born of such relationships.

40. Ms. OUEDRAOGO drew attention to the difference in the marriageable ages for boys and girls and sought an explanation for that apparent discrimination. She also wished to know the spirit in which the customs of "misintaka" and "fampodiana" were practised. In her view, those customs were offensive to the dignity of women. If, however, the customs were accepted by the women themselves, then the Directorate for the Advancement of the Status of Women and Children would need to adapt its approach to the problem accordingly.

41. Ms. AOUIJ noted that 70 per cent of marriages were traditional rather than civil. Since a woman in such a marriage could not enforce her rights to, inter alia, alimony and the custody of her children in a court of law in the event of a divorce, she wished to know how such problems were dealt with in the Malagasy society.

42. The marriageable age of 14 for girls was too low. In any case, it would be more practical to bring the marriageable age into line with the age of majority for purposes of marriage, which was 18 years. Noting that, although prohibited by law, the practice of polygamy was on the increase, she wondered how its practitioners were able to escape the sanction of the law.

43. Finally, given the legal provision under which the husband was the head of household, she wished to know what action the Directorate was taking to enable women to have a greater say in the management of the home and in the education of the children.

44. Ms. TALLAWY observed that the marriageable age was too low. Many Governments which had ratified the Convention had also ratified the Convention on the Rights of the Child, which, inter alia, provided a definition of a child. Under that definition an individual 14 years old was still a child. The legislation in question should therefore be reviewed in order to ensure respect for the rights of children.

45. Ms. RAJAONSON (Madagascar), replying to the question concerning the obstacles to female employment listed on page 9 of the report, said that they reflected the apprehensions and mental attitudes of women and that the Government deplored those attitudes and was actively working to change them.

46. In ethno-sociological terms, approximately 47 per cent of the population subscribed to traditional religions, 48 per cent were Christians, about half Catholic and half Protestant and 5 per cent of the population was Muslim. Most people were also influenced by animism. The population was made up of 18 ethnic groups, which shared a common language and cultural tradition.

47. Owing to the rise of poverty in Madagascar, prostitution was not condemned as much as it had been in the past. Information on health and the threat of HIV/AIDS was available to prostitutes. Although there was an HIV/AIDS prevention and treatment programme, there were no health programmes designed especially for women.

48. Women enjoyed the right to participate in, and some were leaders of political parties. In 1992, a woman had campaigned for President. It would indeed seem necessary to determine the reason for the scarcity of women in political life. Although for the present report it had not done so, Madagascar intended to consult non-governmental organizations when preparing future reports.

49. The national population policy of Madagascar was designed to inform men and women that large families and frequent pregnancies were detrimental to both women and children. The policy, which represented a complete about-turn on the part of the Government, had only recently begun to be implemented and had therefore yet to produce measurable results.

50. Rural credit for both men and women was a major concern of the Malagasy Government. A new credit project, financed by UNDP, was now under way in Madagascar, the purpose of which was to establish savings banks for women in both rural and urban milieus.

51. Malagasy women appreciated the traditional practice whereby, in the event of a marital conflict, a women could return to her parents' home. The money that a husband was required to pay to secure his wife's return was less a dowry than a fine; it served as an apology, and a promise to refrain from such behaviour in the future. For a Malagasy women, that tradition functioned as a protection against abuse from her husband.

52. When a person died intestate, the spouse fell into the "eighth category" of inheritance without distinction as to sex. Traditionally, when a spouse remarried it was considered preferable to keep land and other assets within the family.

53. Ms. ABAKA said that she had raised that objection because in Africa often a wife could only acquire property during marriage, and if disinherited after the death of her spouse, she would be denied any legal means of improving her economic condition. Under the terms of the Convention a wife must be guaranteed a legal right to the property she had acquired during her marriage.

54. Mr. RAKOTONDRAMBOA (Madagascar) said that under Malagasy law, if a person died testate, the surviving spouse received half the goods acquired in marriage. If, however, a person died intestate, the conjugal union was deemed to have been dissolved, and the share that would ordinarily have gone to the spouse went to other members of the family in the manner described in the report. That law was based on the traditional principle whereby goods that belonged to a spouse before marriage remained personal and did not fall into the category of common property.

55. Madagascar had indeed derived many benefits from its ratification of the Convention. The International Bill of Human Rights, the African Charter of Human and People's Rights, and the Declaration on the Rights of the Child had been enshrined in the preamble of the Constitution of Madagascar of 18 September 1992. Under the articles of the Constitution, sex-based discrimination was prohibited. Justice was assured for all without distinction as to sex, and a shortage of resources could not be considered a justification for the withdrawal of that right. All citizens, without discrimination of any kind, were entitled to vote. The family was considered a fundamental unit of society, and protected by law. Access to public office was open to all citizens, subject only to ability. A person could not be dismissed from his employment on the basis of sex. Furthermore, in many cases, legislation had already been drafted that reflected many such constitutional provisions. There was, however, a gap between the establishment of such constitutional and legislative provisions and their enforcement; the Government of Madagascar was attempting to redress that problem.

56. Violence was punished by the courts whether perpetrated against, or committed by, a man or a women, without distinction as to sex. A prostitute was therefore protected as would be any other citizen of the Republic.

57. The anti-adultery laws did indeed distinguish between men and women in the nature and degree of punishment. An adulteress could be denounced only by her husband, and if found guilty was liable to three months to two years of imprisonment. The husband could agree at any point to take his wife back and she would be released. If, however, a husband was found guilty of keeping a concubine in the family home, he was required to pay a fine. The reasons for that disparity could be historically explained.

58. Polygamy was banned in Madagascar and if a man married two wives the second marriage was considered null and void. However, given the small number of police in relation to the population, that law was not always enforced. Moreover, because of the worsening economic conditions, an increasing number of men had started to keep several concubines. That situation was not, however, strictly speaking polygamy, since no formal marriage contract was involved.

(Mr. Rakotondramboa, Madagascar)

59. Although the marriageable age for girls was set at 14 years, young people under the age of 18, regardless of sex, required parental permission in order to marry. It did not matter if husband and wife disagreed, for the permission of one parent was sufficient. Finally, he said that female circumcision was not practised in Madagascar.

60. The CHAIRPERSON said that she was astonished that the Declaration on the Rights of the Child had been incorporated into the Malagasy Constitution but not the Convention on the Elimination of All Forms of Discrimination against Women. Although the Universal Declaration of Human Rights did address the question of sexual equality, the Convention on the Elimination of All Forms of Discrimination against Women took a much stronger and more progressive stand. She noted that while the representatives of Madagascar had endeavoured to provide explanations for certain laws affecting women the legal system was still steeped in traditional practice. While it was true that, owing to historical, cultural and economic conditions, many States parties to the Convention commenced from a backward position vis-à-vis women, the Committee had to emphasize that those countries that ratified the Convention, as well as the organizations they established for the advancement of women, should make use of the Convention to help them to promote forward-thinking policies on behalf of women within their legislative bodies. Women must not forget that the Convention was an instrument devised to aid them in their efforts to better their condition. Article 4, in particular, which dealt with the adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women, could be of great assistance in economically disadvantaged countries.

The meeting rose at 6 p.m.